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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,600	09/19/2003	Dennis R. Hodge	249768075US	3627

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EXAMINER
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TRAN, KHOI H

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/664,600	<b>Applicant(s)</b> HODGE ET AL.	
	<b>Examiner</b> Khoi H Tran	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**KHOI H. TRAN**  
**PRIMARY EXAMINER**

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-29 and 31-40, drawn to method and computer memories for performing method of picking items, classified in class 700, subclass 213.
  - II. Claim 30, drawn to a wireless display device, classified in class 340, subclass 825.06.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not required the particulars of a wireless display device for patentability. The subcombination has separate utility such as for use in another picking method involving different picking steps.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I, the embodiment represented by: receiving a pick confirmation identifying when the item was picked, adding to the time an expected travel time to

obtain a sorter dwell start time, subtracting an expected travel time of another item from the sorter dwell start time to obtain a pick window start time for the another item;

Species II, the embodiment represented by: revising a sorter dwell start time and subtracting an expected travel time of another item from the revised sorter dwell start time to obtain a revised pick window start time for said another item;

Species III, the embodiment represented by: selecting a first period of time of target length during which the first-picked item is expected to arrive at a sorting location and designating a picking period for another item, when shifted forward in time by an amount of time, the item will take to arrive at the sorting location once picked, falls completely within the first period of time;

Species IV, the embodiment represented by: selecting a first period of time of target length during which the first-picked item is expected to arrive at a sorting location and designating a picking period for another item, when shifted forward in time by an amount of time, the item will take to arrive at the sorting location once picked, is the same as the first period of time;

Species V, the embodiment represented by: selecting a first period of time of target length during which the first-picked item is expected to arrive at a sorting location and designating a picking period for another item, when shifted forward in time by an amount of time, the item will take to arrive at the sorting location once picked, begins later than does the first period of time;

Species VI, the embodiment represented by: selecting a first period of time of target length during which the first-picked item is expected to arrive at a sorting location

and designating a picking period for another item, when shifted forward in time by an amount of time, the item will take to arrive at the sorting location once picked, ends earlier than does the first period of time;

Species VII, the embodiment represented by: selecting a first period target length during which the first-picked item is expected to arrive at an assembly point, and designating a picking period for another item, when shifted forward in time by an amount of time, the item will take to arrive at the assembly point once picked, falls completely within the first period of time;

Species VIII, the embodiment represented by: determining a window start time for an identified to be picked item by subtracting an item assembly point residency start time an amount of time that the identified item is expected to take to an assembly point;

Species IX, the embodiment represented by: determining a set of items to be included in the shipment by comparing warehousing attributes to the items in the set;

Species X, the embodiment represented by: providing a picking schedule data structure for each of the two or more items specified for the same shipment, information specifying pick window start and end times, such that each of the items, if picked within the pick window specified for it, will arrive at a common destination during a predetermined arrival window;

Species XI, the embodiment represented by: prioritizing picking order by selecting items to occupy a shipment aggregation unit for no more than a target amount of time, and providing entry information for items identifying which shipment of items said items belong;

Species XII, the embodiment represented by: prioritizing picking order by picking urgency level of the items. The urgency level being a first picking urgency level if the present time is later than the identified item's pick window end time. The urgency level being a second picking urgency level if the present time is later than the identified item's pick window start time and earlier than the identified pick window end time.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none of the claims appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (703) 308-1113. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT  
01/10/2005